UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

DEC 15 2016

OFFICE OF
ENFORCEMENT AND
COMPLIANCE ASSURANCE

Ms. Robin T. Ferguson
U. S. Department of the Interior
Office of Surface Mining Reclamation and Enforcement
Division of Regulatory Support
1591 Constitution Ave. NW
Washington, DC 20240

Dear Ms. Ferguson:

The U.S. Environmental Protection Agency has reviewed the November 2016 Final Environmental Impact Statement (FEIS) for the Stream Protection Rule (Rule), prepared by the Office of Surface Mining, Reclamation and Enforcement (OSMRE).

Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA).

We greatly appreciate OSMRE's responsiveness to our comments during the development of this EIS. The FEIS has adequately addressed the majority of EPA's concerns raised in our 2015 comment letter on the Draft EIS, which included water quality protection, stream restoration, and monitoring issues. As a cooperating agency, EPA appreciates OSMRE's continuing efforts to improve the accuracy, precision and clarity of models, analysis and results. We enclose a few suggestions for ways that OSRME can improve the document in the Record of Decision.

Sincerely,

FOR,

Robert Tomiak
Director
Office of Federal Activities

Enclosure

Technical Comments

1. Methane emission calculations: Clarify the basis for the methane emission factors used to calculate methane emissions from coal and include in the ROD. The emissions factor given here is not created from the document cited, i.e., the US GHG Inventory. Clarify the basis for the methane emission factors used to calculate methane emissions from coal and include in the ROD. See FEIS, p. 794.

2. Inconsistencies exist between the estimated GHG impacts reported in the rule's preamble and those reported in the FEIS. The preamble reports an annualized value, $57 million, which appears to be based on CO_2 impacts, while the FEIS reports both CO_2 and CH_4 impacts in only one year (2020). Specifically, the analysis estimates a reduction in greenhouse gas emissions on the order of 2.6 million tons of CO2-equivalents in 2020, a benefit of $110 million in that year.

3. The FEIS responds to some of EPA's SC-GHG comments; however, it incorrectly refers to the four SC-GHG values as "scenarios" (p. 799). The four values should be labeled as "values" or "estimates" rather than "scenarios." The selection of four SC-CO2 and four SC-CH4 values for use in regulatory analysis is separate from the socio-economic emission scenarios. The four values are as follows: the average across all models and socioeconomic emission scenarios at a 5 percent discount rate, average across all models and socioeconomic emission scenarios at a 3 percent discount rate, the average across all models and socioeconomic emission scenarios at a 2.5 percent discount rate, and the 95th percentile estimate across all models and socioeconomic emission scenarios at a 3 percent discount rate. More accurate labeling would avoid confusion with the socioeconomic emission scenarios used to develop the SC-GHG estimates. The IWG developed the SC-GHG estimates based on five socioeconomic emission scenarios.

4. We recommend including a description of what non-use values are in the ROD, indicating the potential non-use values associated with some of the resources described in Chapter 3, and qualitatively describing potential changes in those non-use values due to the rule in Chapter 4. For example, Chapter 4 describes changes in surface water quality. Research on non-use values for water quality including stream quality, have shown that non-use values are often of comparable magnitude with use values and are sometimes larger (for examples, see Johnston et al, *Env. and Res. Econ.* Online April, 2016).

5. The FEIS on p. 4-202 states, "Estimated increase in energy generation from natural gas. As identified by the EVA model, the total reduction in Gwh from coal is made up via additional production from natural gas." It is unclear from this statement what assumptions were used to estimate the change in methane emissions from changes in natural gas production. For example, this could mean that the EVA model outputs of the change in gas consumption by the sector, and the location of where changes in production of gas occur, are used to estimate the change in methane emissions. Alternatively, it could mean that the analysis of methane changes simply assumes that the decrease in electricity production from coal is all displaced by electricity production from natural gas. We recommend this be clarified, as appropriate.